Supp. 462, the Appellate Division of the Supreme Court of New York, in a well-considered opinion, made a decision which entirely covers the present case. The court held that the preference should be deemed to have been obtained at the time 'when possession was taken, though the taking of possession was merely to effectuate an agreement made in good faith, and many months before the prohibited time for making the transfer.'

"The case at bar certainly falls within the spirit and reason of the statute as interpreted in these decisions. The reason for the enactment, as it is interpreted, is well illustrated by the fact that the mortgagor in this case, less than four months before the procedings in bankruptcy, made a statement to certain of his creditors and to commercial agencies that there was no incumbrance on his stock or fixtures—a statement which was literally true if we look only to the state of the title as against creditors, but wickedly false in its understood meaning if the mortgagee, on the eve of the debtor's bankruptcy, could take all of the debtor's property, and leave nothing for the other creditors, who had trusted him because of his possessions."

EVIDENCE—INDIVIDUAL OR CORPORATE LIABILITY—FAILURE TO COMPLY WITH CORPORATION LAW.—In an action for personal injuries, from being run over by a newspaper wagon, where the issue was as to the ownership of the wagon—the defendant claiming that it belonged to a corporation in which he was merely a stockholder, and the plaintiff claiming that the corporation was one of several, organized by the defendant, all of which were shams, and that he was the real owner of the wagon—evidence on the part of the plaintiff that the corporations had failed to file annual reports with the county clerk and the state comptroller is inadmissible, and, in a close case, such evidence, received under objection and followed by instructions from the court that the jury "might consider the fact of a failure to file the reports in deciding whether such corporations were conducted in good faith, and whether their articles of association were mere forms under which the defendant had and exercised control," is reversible error. *Werner* v. *Hearst* (Ct. App. N. Y.) 30 N. Y. L. J. 1091.

Per Gray, J.:

"The plaintiff was thus permitted to interject an irrelevant issue as to the character and valid existence of the corporations and it is reasonable, and, indeed, upon the record, fairly, conceivable that the jurors may have reached their verdict upon the supposition that, if the newspaper corporations were invalid, or defunct corporate entities, the defendant was necessarily liable. But that is not so. They were corporations in fact, however open to inquiry as to their right to continue as such at the instance of the proper authorities. It was not the province of the jury to determine whether they were incorporated in good faith, or whether the corporations were a mere form and an evasive device on the defendant's part to escape an individual responsibility for the conduct of the business (*Demarest* v. *Flack*, 128 N. Y. 205, 213). The issue was whether the defendant was the employer of the negligent driver, or whether the newspaper corporation was. All evi-

dence establishing, or tending to establish, the fact in either way was competent; but it was not competent proof upon the subject to show that the corporation had defaulted in its obligations and duties under the law which gave it corporate rights and regulated its existence.

BANKRUPTCY—BUILDING AND LOAN ASSOCIATIONS.—A building and loan association cannot be made the subject of involuntary procedings under the National Bankruptcy Act of 1898. *Matter of N. Y. B. & L. Banking Co.* (U. S. D. C., S. D. N. Y.) 30 N. Y. Law Journal, 1223.

Per Holt, J.:

"In determining the question involved, it is not necessary to consider the English decisions or the decisions under the earlier American bankrupt acts. The authorities under the present act seem decisive. They hold, in substance, that the intention of the present Bankrupt Act, the provisions of which are much more restrictive than those of the earlier bankrupt acts, was to exclude from the operation of the act banks, railroad, telegraph and express companies, and all corporations except those mentioned in the act. By the provisions of the present act, the corporations which can be put into involuntary bankruptcy are those 'engaged principally in manufacturing, trading, printing, publishing, mining or merchantile pursuits.' These terms are to be taken in their natural and usual meaning, and any corporation which does not come within such meaning cannot be put into bankruptcy. I think that an ordinary building and loan association is not a corporation which is included in the provision quoted. Admittedly the only kind of corporation described in the act which it can be claimed to be is one engaged principally in either manufacturing, trading or mercantile pursuits. I think that it does not come within any of these descriptions. No direct decision that a building and loan association cannot be put into bankruptcy has been brought to my attention, but the great weight of authority in analogous cases supports the view that they cannot. The following classes of corporations, for instance, have been held not to be subject to the present Bankrupt Act: A mutual fire insurance company (*Re Cameron Town Mut. Fire &c., Ins. Co.*, 96 Fed. Rep. 756), a tontine insurance company (*Re Tontine Surety Co.*, 116 Fed. Rep. 401), a company organized to buy and sell stocks, bonds and securities (*Re Surety Guar. & Trust Co.*, 121 Fed. Rep. 73), a common carrier of persons and property (*Re Philadelphia, &c., Co.*, 114 Fed. Rep. 403; *Re H. J. Quimby Freight Forwarding Co.*, 121 Fed. Rep. 139), a water supply company (*Re N. Y. & Westchester Water* Co., 98 Fed. Rep. 711), a company organized to give theatrical performances (*Re Oriental Soc'y*, 104 Fed. Rep. 975), a company carrying on the business of a restaurant and saloon (*Re Chesapeake Oyster & Fish Co.*, 112 Fed. 960), a social club (*Re Fulton Club*, 113 Fed. Rep. 997), a public circulating library (*Re Parmelee Library*, 120 Fed. Rep. 235), a laundry company (*Re White Star Laundry Co.*, 117 Fed. Rep. 570."

HIGHWAYS—DEFECTS IN—KNOWLEDGE OF CONTRIBUTORY NEGLIGENCE.—An important ruling in this law, both because of the source from which it ema-